



FEDERAL MEDIATION AND CONCILIATION SERVICE
OFFICE OF ARBITRATION SERVICES
WASHINGTON, DC 20427

February 2001

Re: Office of Arbitration Services Update

Dear Arbitration Services Customer:

We are hopeful that more frequent communications with the customers – labor, management, and arbitrators – will contribute to improved services by the Office of Arbitration Services (OAS) staff. Therefore, we plan to send you more frequent updates on topics we consider important. This past May, FMCS Director C. Richard Barnes informed you of several changes taking place in the OAS, all aimed at better service delivery. We are pleased to reaffirm those changes and announce additional ones.

In October 2000, I accepted the position of Director, Office of Arbitration Services on a full-time basis. I am now devoting all of my time to this important job and hope that you will let me know how we might better serve you. Please e-mail me at vtraynham@fmcs.gov or write me with your comments or suggestions.

1. **OVERDUE AWARDS BY ARBITRATORS**

Upon notification from either party of an overdue award or decision by an arbitrator, FMCS will ask the arbitrator to contact the parties promptly to inform them when the decision and award will be rendered. In addition, **the Director of Arbitration Services shall make arbitrators “unavailable” for selection on panels if FMCS confirms that an arbitrator has overdue awards and decisions in two or more cases.** Arbitrators who have been made “unavailable” for work from FMCS will not be eligible for additional panels until the overdue decisions and awards have been rendered. Repeated lateness in rendering decisions shall be cause for further review and discipline by the Arbitrator Review Board, including removal.

Under FMCS Rules (29 CFR Section 1404.14), “arbitrators shall make awards no later than 60 days from the date of the closing of the record as determined by the arbitrator,” unless otherwise stipulated in the collective bargaining agreement or agreed to by both parties. The rules also require the parties to inform OAS whenever a decision is unduly delayed.

Parties are encouraged to inform the arbitrator immediately of any specific contract language which requires that a decision be rendered in a timeframe contrary to FMCS’ policies.

2. **SCHEDULING AND REPORTING**

Arbitrators on the FMCS Roster are required to contact the parties within 14 days of their selection to arrange preliminary matters, such as the date and place of the hearing (29 CFR Section 1404.12). In addition, Section 1404.14 of the FMCS Arbitration Policies and Procedures require arbitrators to submit to FMCS an Arbitrator’s Report and Fee Statement (Form R-19) within 15 days after an award has been submitted to the parties. Costs associated with arbitration services are important information for the parties, the arbitrators and this agency. In addition, FMCS is required to track this information to disseminate to the public in its annual reports.

3. **RE-ADMITTANCE TO THE ROSTER**

Arbitrators who voluntarily remove themselves from the FMCS Roster must reapply to the Arbitrator Review Board after a two-year absence. Applicants will be required to complete the Arbitrator’s Personal Data Questionnaire and submit a detailed and updated resume. The Board will review the materials and determine if additional continuing education or other requirements are needed for admittance.

4. FY 2000 STATISTICS

Based on information taken from the R-19 forms submitted by arbitrators, we are pleased to provide the following case statistics for fiscal year 2000 (October 1, 1999- September 30, 2000):

Average Dollar Amounts (Based on all Awards):

• Per Diem Rate	\$ 672.12
• Fees	2,863.49
• Expenses	321.67

Total Charges	\$3,185.16
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Average Days Duration (Based on all Awards):

• Hearing Time	1.18
• Travel Time	.51
• Study Time	2.58

Total Time	4.27
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5. FMCS INSTITUTE FOR CONFLICT MANAGEMENT

Director Barnes announced in May 2000 that Commissioner Gary R. Hattal had been reassigned to serve as the Director of the FMCS Institute for Conflict Management. Established in 1999, the Institute offers a variety of skills training and education in conflict management and resolution aimed at improving relationships between labor and management. Outlined below are two Institute courses of particular interest to the arbitration community.

- **Labor Arbitration Training**

To increase the professionalism and expertise of new arbitrators, the FMCS Institute conducted two Labor Arbitrator Training courses in FY 2000 for labor-management practitioners with substantial experience in industrial, labor or employment relations. Presented by members of the National Academy of Arbitrators and FMCS staff, the training covers the following subjects: the law of arbitration; basic arbitration practice, including scheduling and pre-hearing procedures; conduct of the arbitration hearing; evidence in arbitration; arbitrator ethics, and award and opinion writing.

Successful completion of this training will substitute for some of the requirements for entry to the FMCS Arbitration Roster, specifically the five arbitrator case decisions. ***However, successful completion of this course does not guarantee a place on the FMCS Roster.***

The next Labor Arbitration Training course will be held on November 5-9, 2001 in Cincinnati, OH.

- **Arbitration For Advocates**

This is an intensive three-day program designed to enhance the arbitration skills of experienced labor relations practitioners – union business agents and stewards, personnel managers and analysts, and attorneys for both labor and management. Useful for private and public sector representatives, the training includes topics such as educating the arbitrator prior to hearing; opening the case with a winning statement; structuring the order of proof; proving negotiating history and past practice; examining expert witnesses; offering relevant prior precedent; relying on external law to strengthen your position; and many more.

For more information on these and other courses offered by The Institute, call Ms. Jacquie Ford at (202) 606-FMCS (3627). Or you may e-mail the Institute at jford@fmcs.gov.

6. ARBITRATOR APPOINTMENTS

We have learned that some parties are selecting arbitrators from FMCS panels without notifying the Office of Arbitration Services. Parties are to inform FMCS of all arbitrator appointments resulting from panels submitted by FMCS. Arbitrators who

have been advised by the parties of their selection should contact FMCS immediately and provide the date of appointment and the case number.

7. DEPARTMENT OF DEFENSE ARBITRATIONS

FMCS was recently asked to inform arbitrators who accept cases for Department of Defense (DoD) agencies of a requirement to register with Central Contractor Registration (CCR). Because DoD is the nation's largest purchaser of goods and services in the world, CCR was created to be the single repository of vendor data for the entire DoD to avoid administrative duplication and allow contractors to take responsibility for the accuracy of their own important business information by supplying it directly to the government through a single registration.

Arbitrators who accept cases from DoD agencies may want to inquire of the parties how to join Central Contractor Registration to ensure problems will not be encountered as it relates to payments for arbitration services provided to DoD agencies.

8. ELECTRONIC FILING

Since May 30, 2000, 140 on-line panels have been issued via the agency's Internet site. For those customers who have access to the Internet, we encourage you to utilize the on-line system to request panels via e-mail, fax or mail. To access this service, visit "Arbitration Services" on the FMCS website (www.fmcs.gov).

To accommodate the electronic filing capability, the **Form R-43 (*Request for Arbitration Panel*)** was modified to enable FMCS to electronically capture the detailed information necessary to comply with customers' requests. In addition, the form now includes the new geographical selection areas. Many of you have provided several good suggestions on improving the form, and later in the year, some modifications will be made to make it more "user friendly." In the meantime, we ask that you please check your supply of R-43 forms and destroy any that were revised prior to 10/11/99.

9. GEOGRAPHICAL SELECTION CAPABILITY

After convening several meetings with labor and management customers and arbitrators who serve on our Roster, FMCS revised the geographical selection locations from which parties may request arbitration panels. These revisions were made to address customer complaints related to selection options. In particular, some customers preferred arbitrators whose principal offices were closer to the sites of their disputes, thereby avoiding costly travel expenses. Other customers wanted to expand their selection choices within their geographical areas. The requesting party may obtain a panel from our expanded selection of geographical areas without a joint request. However, "Special Requirements" will continue to be honored only upon receipt of a joint request or certification that both parties have agreed with the request.

The three geographical selection areas follow:

- (1) **Metropolitan**. If this area is selected, parties will receive a panel of arbitrators whose principle offices are within a 125-mile radius of the site of the dispute.¹ Should less than 21 arbitrators be available, the parties will automatically receive a sub-regional panel. While the OAS permits arbitrators to have two address listings, **only the primary address will be used for this selection.**
- (2) **Sub-Regional**. If this area is selected, parties will receive a panel of arbitrators in accordance with the "***Revised State Coding for Arbitrator Selections***" (copy enclosed). FMCS now uses both an arbitrator's primary and secondary address in filling sub-regional panel requests. Arbitrators must bill from the address closest to the site of the dispute. If a customer receives a biographical sketch of an arbitrator and it contains two addresses, the address within the geographical area requested is the location from which the arbitrator must bill. D.C. Metro Area was added to Virginia; and South Carolina was added to Georgia and Alabama.
- (3) **Regional**. No changes have been made to the 8 regions from which parties may request arbitrators (map enclosed). As in the past, primary and secondary addresses of arbitrators will continue to be considered in filling regional requests.

If a specific geographical area is not indicated on a panel request, the FMCS selection process defaults to "Regional" to select the arbitrator.

¹ The computer program for this option calculates the mileage based on the zip code of the site of the dispute and uses "air miles" versus "road miles" to select arbitrators for this geographical area.

10. TIPS TO HELP FMCS PROCESS YOUR REQUESTS TIMELY

- Read your collective bargaining agreement **BEFORE** you submit your panel request **and** arbitrator selection to FMCS. This will ensure that the panels issued by FMCS and the process utilized to select the arbitrator are consistent with your contract language. **Parties will be charged for second panels if a contract requirement is overlooked when the first panel is requested.**
- Use the Revised R-43 Form to request arbitration panels. A copy is enclosed; make additional copies as needed.
- Use the “Instructions to FMCS” form that accompanies each arbitration panel to appoint an arbitrator, request a second panel, or provide additional instructions to the Arbitration Services Office. If the form is altered to substitute representatives, please include updated information for the employer and the union, if applicable.
- Include the full FMCS Case Number on all correspondence with FMCS, including any requests for second panels.
- Provide FMCS with a copy of your collective bargaining agreement **OR** certify on page two of the R-43 Form that the request is jointly agreed if one (1) party requests:
 - (a) a number of arbitrators not equal to seven; or
 - (b) “Special Requirements,” such as membership in the National Academy of Arbitrators.
- Provide credit card information or enclose a check for \$30.00 for each panel requested.
- Include credit card information on all faxed requests. FMCS will not issue panels without payment, even if the request is faxed. The agency will not be responsible for maintaining faxed requests that do not include payment information.
- Notify FMCS if a case is settled prior to arbitration. We suggest that only one party provide notification to avoid duplication of work.

We hope you will share this information with others in your company or labor organization. Our goal is to provide timely and accurate service to the collective bargaining community, and we ask that you let us know if there are other ways in which we can be helpful.

Sincerely,

Vella M. Traynham

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Director, Office of Arbitration Services

Enclosures

1. Revised State Listing and Regional Map
2. Revised R-43 Form (See “Forms” Section for copy of R-43)

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REVISED STATE CODING FOR ARBITRATOR SELECTIONS

<u>SITE OF DISPUTE</u>	<u>SUB-REGIONAL</u>	<u>REGIONAL</u>
ALABAMA	AL	ALSC/GA/FL/TN/SC/NC
ALASKA	AK/WA/OR	AK/WA/OR/ID/MT/WY/UT/CO
ARIZONA	AZ/NM/NV	AZ/CA/NV/HI
ARKANSAS	AR/NORTHERN TX/LA/MS	AR/OK/LA/TX/NM
CALIFORNIA		CA/NV/AZ/HI
Northern CA	Northern CA	
Southern CA	Southern CA	
COLORADO	CO	CO/AK/WA/OR/ID/MT/WY/UT
CONNECTICUT	CT/RI	CT/RI/MA/NH/VT/ME
DELAWARE	DE/MD/NJ	DE/MD/DC/VA/WV/NJ/PA/NY
DC	DC Metro Area	DC/DE/MD/VA/WV/NJ/PA/NY
FLORIDA		FL/AL/MS/GA/TN/SC/NC
Northern FL	Northern FL	
Southern FL	Southern FL	
GEORGIA	GA/AL/SC	GA/AL/MS/FL/TN/SC/NC
HAWAII	HI/Southern California	HI/CA/NV/AZ
IDAHO	ID/WY/MT/OR/WA	ID/CO/AK/WA/OR/MT/WY/UT
ILLINOIS	IL	IL/MO/KS/NE/IA/SD/WI/MN/ND
INDIANA	IN	IN/OH/KY/MI
IOWA	IA/IL	IA/IL/MO/KS/NE/SD/WI/MN/ND
KANSAS	KS/MO/NE	KS/IL/MO/NE/IA/SD/WI/MN/ND
KENTUCKY	KY/Southern Ohio	KY/OH/IN/MI
LOUISIANA	LA/MS/AR/TX	LA/AR/OK/TX/NM
MAINE	ME/NH/VT/MA/Canada	ME/VT/NH/MA/CT/RI
MARYLAND	MD/DC/DE	MD/DC/DE/VA/WV/NJ/PA/NY
MASSACHUSETTS	MA	MA/CT/RI/NH/VT/ME
MICHIGAN	MI	MI/OH/KY/IN
MINNESOTA	MN	MN/IL/MO/KS/NE/IA/SD/WI/ND
MISSISSIPPI	MS/AR/LA/AL	MS/GA/AL/FL/TN/SC/NC
MISSOURI	MO	MO/KS/IL/NE/IA/SD/WI/MN/ND
MONTANA	MT/WY/ID/ND/WA	MT/ID/CO/AK/WA/OR/WY/UT
NEBRASKA	NE/IA/KS/CO	NE/IA/IL/MO/KS/SD/WI/MN/ND
NEVADA		NV/CA/AZ/HI
Northern NV	Northern NV/Northern California	
Southern NV	Southern NV/Southern California	
NEW HAMPSHIRE	NH/VT/ME/MA/Canada	NH/CT/RI/MA/VT/ME
NEW JERSEY	NJ	NJ/DE/MD/DC/VA/WV/PA/NY
NEW MEXICO	NM/AZ/UT/CO	NM/AR/OK/LA/TX
NEW YORK		Y/DE/MD/DC/VA/WV/NJ/PA/Canada
New York Metro Area	New York City/Long Island	
Upstate NY	Cities above Westchester County/ Eastern NY/ Western NY/Canada	
NORTH CAROLINA	NC/VA/SC	NC/GA/AL/MS/FL/TN/SC
NORTH DAKOTA	ND/MT/WY/MN	ND/IA/IL/MO/KS/NE/SD/WI/MN
OHIO		OH/KY/IN/MI
Northern OH	Northern OH	
Southern OH	Southern OH	
OKLAHOMA	OK/Northern TX/KS/AR	OK/AR/LA/TX/NM
OREGON	OR	OR/ID/CO/AK/WA/MT/WY/UT

SITE OF DISPUTE**SUB-REGIONAL****REGIONAL**

PENNSYLVANIA
 Eastern PA
 Western PA
RHODE ISLAND
SOUTH CAROLINA
SOUTH DAKOTA
TENNESSEE
TEXAS
 Northern TX
 Southern TX
UTAH
VERMONT
VIRGINIA
WASHINGTON
WEST VIRGINIA
WISCONSIN
WYOMING
PUERTO RICO
VIRGIN ISLANDS

Eastern PA/DE
Western PA
RI/CT
SC/NC/GA
SD/ND/MT/WY/MN
TN/KY/NC

Northern TX
Southern TX
UT/NV/AZ/WY/ID
VT/NH/ME/Canada/MA
VA/NC/DC
WA
WV/VA
WI
WY/ID/MT/ND/UT/CO
PR/VI/FL
PR/VI/FL

PA/DC/DE/MD/VA/WV/NJ/NY

RI/CT/MA/NH/VT/ME
SC/NC/GA/AL/MS/FL/TN
SD/IA/IL/MO/KS/NE/WI/MN/ND
TN/NC/GA/AL/MS/FL/SC
TX/LA/AR/OK/NM

UT/CO/AK/WA/OR/ID/MT/WY
VT/CT/RI/MA/NH/ME
VA/MD/DC/DE/WV/NJ/PA/NY
WA/AK/CO/OR/ID/MT/WY/UT
WV/DC/DE/MD/VA/NJ/PA/NY
WI/KS/IL/MO/NE/IA/SD/MN/ND
WY/CO/AK/WA/OR/ID/MT/UT
GA/AL/MS/FL/TN/SC/NC
GA/AL/MS/FL/TN/SC/NC

FMCS REGIONAL ARBITRATION MAP